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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

MICHAEL ZIMMERMAN,

Defendant and Appellant.

B290076

(Los Angeles County  
Super. Ct. No. NA106609)

APPEAL from a judgment of the Superior Court of  
Los Angeles County, Richard M. Goul, Judge. Affirmed.

Linda Gordon, under appointment by the Court of Appeal,  
for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

## **INTRODUCTION**

Defendant Michael Zimmerman pled no contest to resisting an officer, unlawful possession of ammunition by a felon, counterfeiting a seal, and bringing an illegal substance into a jail. He appealed. We have conducted an independent examination of the entire record pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), and conclude that no arguable issues exist. We therefore affirm.

## **FACTUAL AND PROCEDURAL BACKGROUND**

At a preliminary hearing, Long Beach Police Department (LBPD) officer Christopher Brammer testified that while he was on patrol on June 2, 2017, he saw defendant in a car. Brammer recognized defendant from information relating to a previous investigation, and knew defendant was on parole. As Brammer and his partner approached, defendant stepped out of the car; the officers stopped and told defendant they were going to do a parole compliance check. Defendant consented and moved to the front of the patrol car. The officers found a locked suitcase inside defendant's car, and defendant refused to provide the combination to the lock. The officers attempted to handcuff defendant and defendant resisted, so the officers tased and eventually handcuffed defendant. Once defendant was subdued, he provided the combination to the suitcase lock. Inside, officers found "green fake U.S. currency that appeared to look like a \$20 bill," and a black-and-white copy of that fake bill.

LBPD officer Carlos del Real testified that he searched defendant's residence. He found additional counterfeit currency

and ammunition. Del Real also transported defendant to the booking facility, where a search revealed that defendant was in possession of three baggies of methamphetamine.

On July 5, 2017, the Los Angeles County District Attorney (the People) filed an information charging defendant with two counts of felony resisting an officer (Pen. Code, § 69,<sup>1</sup> counts 1 and 2), unlawful possession of ammunition by a felon (§ 30305, subd. (a)(1), count 3), felony counterfeiting a seal (§ 472, count 4), and felony bringing an illegal substance into a jail (§ 4573.5, count 5). The information further alleged that defendant had prior convictions (§ 667.5, subd. (b)), and a prior serious felony conviction (§§ 667, subd. (d), 1170.12).<sup>2</sup> Defendant pled not guilty.

Defendant filed a motion to suppress evidence, including “[a]ll statements, documents, ammunition, methamphetamine other evidence firearms [*sic*] recovered and the seizure of defendant on 6-2-17.” Defendant asserted that a search without a warrant is presumptively illegal, and the prosecution must establish the legality of the search. The People opposed the motion, asserting that defendant was on parole, and a person on parole “is subject to search or seizure by a probation or parole officer or other peace officer at any time of the day or night, with or without a search warrant or with or without cause.” (§ 3067, subd. (b)(3).)

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<sup>1</sup>All further statutory references are to the Penal Code unless otherwise indicated.

<sup>2</sup>The People filed an amended information on October 10, 2017, which alleged the same five counts but included additional prior convictions.

At the hearing on the motion, Brammer testified that on May 25, 2017, he received a report that someone witnessed defendant placing a rifle into the back of a vehicle. Brammer checked defendant's name in the National Crime Information Center (NCIC) database and discovered that defendant was on parole, with a parole expiration date of January 2018. Officers were unable to locate defendant in relation to that investigation. When Brammer and his partner encountered defendant on June 2, 2017, they were attempting to locate defendant for purposes of a parole compliance check in light of the previous report. Defense counsel argued there was insufficient evidence that defendant was identified as a person on parole at the time of the stop. The court denied the motion.

Defendant filed a *Pitchess*<sup>3</sup> motion for the personnel records of Brammer and his partner. The People opposed the motion. Defendant filed a supplemental *Pitchess* motion seeking additional records; the People opposed the supplemental motion. The court granted the motion for "the use of excessive force and false statement and/or reports, as to both officers."

On November 29, 2017, defendant accepted a plea deal for two years in state prison. He pled no contest to all five counts, and admitted his prior convictions. The court struck defendant's prior strike, and sentenced defendant to the midterm of two years in state prison on count 1, and the midterm of two years in state prison on counts 2 through 5, to be served concurrently. The court determined that defendant had 361 days custody credits.

A felony abstract of judgment was filed December 4, 2017. On May 17, 2018, defendant filed a motion in this court requesting relief from default for failing to file a timely notice of

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<sup>3</sup> See *Pitchess v. Superior Court* (1974) 11 Cal.3d 531.

appeal. On June 12, 2018, this court granted the motion. Defendant filed a notice of appeal on June 21, 2018, and checked the box on the form stating, “This appeal is based on the denial of a motion to suppress evidence under Penal Code section 1538.5.”

On appeal, defendant’s appointed counsel filed a brief requesting that we independently review the record for error. (*Wende, supra*, 25 Cal.3d at p. 441.) We directed counsel to send the record and a copy of the brief to defendant, and mailed defendant notice of his right to respond within 30 days. Our notice to defendant was returned as undeliverable, and defense counsel informed the court that she also had been unable to contact defendant or obtain a current mailing address for him. Defense counsel requested an extension of time for defendant to respond, which we granted. The extension of time has expired, and we have received no response from defendant.

### **DISCUSSION**

We have examined the entire record, and are satisfied no arguable issues exist in the appeal before us. (*Smith v. Robbins* (2000) 528 U.S. 259, 278; *People v. Kelly* (2006) 40 Cal.4th 106, 110; *Wende, supra*, 25 Cal.3d at p. 443.)

### **DISPOSITION**

The judgment is affirmed.

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COLLINS, J.

We concur:

MANELLA, P. J.

WILLHITE, J.